

REMARKS/ARGUMENTS

Claims 1-54 are pending. The Examiner has required restriction of the pending claims to one of the following seven inventions under 35 U.S.C. §121.

Group I, claims 1-12, drawn to a process of making a human-like glycoprotein in a lower eukaryote cell by introducing to the cell an N-acetylglucosylaminyltransferase III activity, classified in class 435, subclass 455.

Group II, claims 13-17, 22, 23, and 36-39, drawn to a lower eukaryote host cell that comprises an N-acetylglucosylaminyltransferase III activity, classified in class 435, subclass 254.2.

Group III, claims 18-24 and 36-39, drawn to a lower eukaryote host cell comprising a bisected glycan, classified in class 435, subclass 254.2.

Group IV, claims 25-31 and 36-39, drawn to a lower eukaryote host cell comprising a Man5GlcNAc2 or Man3GlcNAc2 core structure modified by a bisecting GlcNAc, classified in class 435, subclass 254.2.

Group V, claims 32-39, drawn to a lower eukaryote host cell comprising a GntIII activity and a mannosidase II activity, classified in class 435, subclass 254.2.

Group VI, claims 40-53, drawn to a glycoprotein, classified in class 530, subclass 395.

Group VII, claims 53 and 54, drawn to a vector selected from pVA, pVB, and pVC, classified in class 435, subclass 320.1.

The applicants elect Group II with traverse. However, the applicants disagree with the Examiner's restriction of the claims into the above groups. The claims of Groups I-VI are related to glycoproteins having bisected glycans (Group VI) made by the process of Group I using lower eukaryote host cells comprising GntIII activity (Groups II or V), and in which the lower eukaryote host cells comprising GntIII activity further contain therein glycoproteins having bisected glycans (Groups III and IV).

According to MPEP 806.05(j), claims to related products or processes are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive, are not obvious variants, and are not capable of use together or can have a materially different design, mode of operation, or effect.

The claims of Groups II and V are not believed to be distinct from each other because the claims in each relate to lower eukaryote host cells that comprise GntIII activity and which, when used to make glycoproteins, are capable of producing glycoproteins having bisected glycans. Furthermore, the claims in both groups are in the same class and subclass. Therefore, the claims are believed to overlap in scope and be obvious variants of each other. A search of the claims of Group II will necessarily include any references which relates to cells having GntIII activity – including cells which additionally contain mannosidase activity. Thus, a search of the claims of Group II would include a search of references relevant to the claims of Group V and would not constitute an undue burden on the Examiner.

The claims of Groups III and IV are not believed to be distinct from each other because the claims in each relate to lower eukaryote host cells that contain glycoproteins having bisected glycans. As such, the claims are believed to overlap in scope and be obvious variants of each other. A search of the claims of Group III will necessarily include any references which relates to lower eukaryote host cells which produce glycoproteins having bisected glycans – including cells which produce glycoproteins having the bisected glycan structures recited in the claims of Group IV. Thus, a search of the claims of Group III would include a search of references relevant to the claims of Group IV and would not constitute an undue burden on the Examiner.

The claims of Groups II, III, IV, and V are believed to overlap in scope and should be contained within the same group because the lower eukaryote host cells of Group II and V, which can produce glycoproteins having bisected glycans, are coextensive with the lower eukaryote cells of Groups III and IV that contain bisected glycoproteins. Furthermore, the claims in both groups are in the same class and subclass and as such, a search of the claims would not be an undue burden on the Examiner.

In light of the above, the applicants propose that the claims be assigned to the following alternative groups: Group I comprising the process claims 1-12, Group II comprising the host cell claims 13-39, Group III comprising the product claims 40-52, and Group IV comprising vector claims 53 and 54. If the proposed groups are acceptable to the Examiner, the applicants elect the claims of alternative Group II.

In view of the foregoing remarks, it is believed that the elected claims are in proper condition for allowance. Accordingly, Applicants respectfully request that a Notice of Allowance be forwarded to the Applicants. The Examiner is invited to contact Applicants' Attorney at the telephone number given below, if such would expedite the allowance of this application.

Favorable action is earnestly solicited.

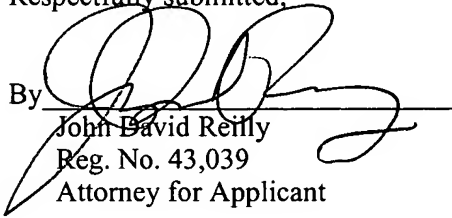
Application No.: 10/680,963  
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Reply to Office Action of: September 28, 2006

CONDITIONAL PETITION

Applicant hereby makes a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this filing. The Commissioner is authorized to charge deposit account 13-2755 for the petition fee and any other fee(s) required to effect this Conditional Petition.

Respectfully submitted,

By

  
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